

December 2, 2010 NIST Smart Grid Privacy Subgroup Meeting Notes

Minutes by Rebecca Herold

Please send this distribution list any necessary corrections or additions.

Next full group teleconference meeting:

Thursday December 9, 2010 at 11:00am est

Here are my summary notes from the meeting:

1. Team reports

- Privacy Use Cases Team: Christine Hertzog (team lead): Meeting this morning. Working on updating the template for the use cases to align more closely with the format used by the rest of the smart grid security groups use cases. Still waiting to get the CPNI info from the briefing next week to see if it would be good to incorporate that information. Meetings on Thursdays.
- Third Party Team: Brent Struthers, Neustar (team lead): Didn't meet last week or this week. Tanya is putting together a model to use for third parties. Will then go through the security controls and review for privacy issues. Meeting next week on Wednesday at 2pm est.
- PEV Team: Mike Coop, Hey Coop! (team lead): Is at Grid Interop
- NSTIC Team: Amanda Stallings, Ohio PUC (team lead): Didn't meet the past two weeks. Received call from Duke Energy (Rob) and will meet to discuss the utilities and how they relate to NSTIC activities. Fridays from 2pm – 3pm est. Will meet tomorrow.

2. Discussion with FBI representatives

- Brent Struthers introduced our guests from the FBI
 - Ryan Breitenbach, FBI General Counsel's Office
 - Adam Cohen, FBI General Counsel's Office
 - Tom Winterhalter, FBI Cyber Security Division
- Some questions the FBI could not answer, but others they provided some comments and personal opinions about.
- Compared how it was hard to tell how it was hard to know in the early days of the Internet what type of data they would be interested in. This is the same with the Smart Grid.
- There are many different regulations across all the states, so they have to stay within those as well.
- Never did a bulk download of data when doing an investigation.
- Regarding retention, there are not any types of rules that are followed. Depends upon each case.
- DoJ has oversight of the FBI.
- Our guests are not in a position to discuss what they will want to look at regarding specific types of data because the area of Smart Grid is new, and they have not had a chance to really know what the issues will be yet.
- Regarding granularity of data. Ultimate goal when doing any activity is the safety of the agents and the community. FBI does everything they can to protect the safety of all those involved.
- Regarding data retention, there is a requirement to retain during the entire course of the investigation. Must keep for as long as a person related to the case can file an appeal.

- Looking at the safety concerns, e.g., in a kidnapping, some info within an appliance could point to where criminal activity may be occurring.
- The subpoena process is typically pretty pointed and direct. Most of the organizations that get served are very specific.
- The FBI does not go beyond asking for data necessary for the investigation. They try not to collect data that they really don't need
- The FBI cannot confirm or deny whether they have used smart grid data in any of their investigations to date.
- Brent: Telcos are used to getting very narrow subpoenas. Dealing with utilities, are they as good at making sure the subpoenas are narrow?
- FBI: Some subpoena information collected from utilities is everything across the board. Some don't provide more than they need. Others provide too much. Some communications with various utilities required the FBI to get even more data than what was originally provided.
- To the FBI reps' knowledge, there is not any type of retention policy being pushed for or implemented. There have been some organizations that have limited retention of the data than what was requested.
- Jennifer (EFF): Has seen many instances when too much data was provided. And then the FBI did not delete that data which was not really needed. Concerned with organizations providing too much data to the FBI.
- FBI: Never stated was across the board that all organizations do well. Only commenting on personal experiences.
- Brent: Is there a need for rules or regulations for how orgs should provide data?
- FBI: Hard to tell. It varies greatly. Within the Internet, some rules weren't in place until after the fact of seeing how data was created. Personally there is a potential to create such rules.
- Retention does create some concerns for investigations. 2703(f)'s can be created that require retention for longer periods of time. Minimum necessary is typically pursued.
- As a general matter of policy, the FBI only collects the minimum amount of data necessary.
- What could a group like ours do to help assist law enforcement?
- Reaching out to the FBI to have a conversation.
- Rebecca: Would be beneficial for our group to give the FBI a briefing of our group's work? And/or explain Volume 2 of NISTIR 7628?
- Potentially. Something to pursue.
- Sarah: Private investigators: how do privacy rules impact them and the associated activities of the private investigators?
- FBI: That can be brought up when discussing with executive management at the FBI. The FBI's goal is to make sure private investigators don't impede an investigation.
- Rebecca: What authority does the FBI have over private investigators?
- FBI: Really none directly. Private investigators, as well as FBI, must follow applicable rules.
- Sarah: Each state has different legal requirements. It varies. They also have their own lobbyists. Perhaps something that we should address.

3. Miscellaneous

- How the FTC Do Not Track legislation may impact the Smart Grid. Something to keep an eye on.
- Will not have a meeting on December 23, 2010

Thanks,

Rebecca